

DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; I believe I am the original, first, and sole inventor (if only one name is listed); or an original, first, and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: PERCUTANEOUS REGISTRATION APPARATUS AND METHOD FOR USE IN COMPUTER-ASSISTED SURGICAL NAVIGATION

the specification of which xx is attached and/or was filed on _____ as United States Application Serial No. _____ or PCT International Application No. _____ and was amended on _____ (if applicable).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above. I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR § 1.56.

I hereby claim foreign priority benefits under 35 U.S.C. § 119(a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate or § 365(a) of any PCT International application(s) designating at least one country other than the United States, listed below and have also identified below, any foreign application(s) for patent or inventor's certificate, or any PCT International application(s) having a filing date before that of the application(s) of which priority is claimed:

| Country | Application Number | Date of Filing | Priority Claimed Under 35 U.S.C. 119 |
|---------|--------------------|----------------|--|
| | | | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| | | | <input type="checkbox"/> YES <input type="checkbox"/> NO |

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below:

| Application Number | Date of Filing |
|--------------------|----------------|
| | |
| | |

I hereby claim the benefit under 35 U.S.C. § 120 of any United States application(s) or § 365(c) of any PCT International application(s) designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application(s) in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR § 1.56 which became available between the filing date of the prior application(s) and the national or PCT International filing date of this application:

| Application Number | Date of Filing | Status (Patented, Pending, Abandoned) |
|--------------------|----------------|---------------------------------------|
| | | |

I hereby appoint the following attorney and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith. **FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P.**, Reg. No. 22,540, Douglas B. Henderson, Reg. No. 20,291; Ford F. Farabow, Jr., Reg. No. 20,630; Arthur S. Garrett, Reg. No. 20,338; Donald R. Dunner, Reg. No. 19,073; Brian G. Brunsbold, Reg. No. 22,593; Tipton D. Jennings, IV, Reg. No. 20,645; Jerry D. Voight, Reg. No. 23,020; Laurence R. Hefter, Reg. No. 20,827; Kenneth E. Payne, Reg. No. 23,098; Herbert H. Mintz, Reg. No. 26,691; C. Larry O'Rourke, Reg. No. 26,014; Albert J. Santorelli, Reg. No. 22,610; Michael C. Elmer, Reg. No. 25,857; Richard H. Smith, Reg. No. 20,609; Stephen L. Peterson, Reg. No. 26,325; John M. Romary, Reg. No. 26,331; Bruce C. Zottler, Reg. No. 27,680; Dennis P. O'Reiley, Reg. No. 27,932; Allen M. Sokal, Reg. No. 26,695; Robert D. Bajefsky, Reg. No. 25,387; Richard L. Stroup, Reg. No. 28,478; David W. Hill, Reg. No. 28,220; Thomas L. Irving, Reg. No. 28,619; Charles E. Lipsey, Reg. No. 28,165; Thomas W. Winland, Reg. No. 27,605; Basil J. Lewis, Reg. No. 28,818; Martin I. Fuchs, Reg. No. 28,508; E. Robert Yoches, Reg. No. 30,120; Barry W. Graham, Reg. No. 29,924; Susan Haberman Griffen, Reg. No. 30,907; Richard B. Racine, Reg. No. 30,415; Thomas H. Jenkins, Reg. No. 30,857; Robert E. Converse, Jr., Reg. No. 27,432; Clair X. Mullen, Jr., Reg. No. 20,348; Christopher P. Foley, Reg. No. 31,354; John C. Paul, Reg. No. 30,413; Roger D. Taylor, Reg. No. 28,992; David M. Kelly, Reg. No. 30,953; Kenneth J. Meyers, Reg. No. 25,146; Carol P. Einaudi, Reg. No. 32,220; Walter Y. Boyd, Jr., Reg. No. 31,738; Steven M. Anzalone, Reg. No. 32,095; Jean B. Fordis, Reg. No. 32,984; Barbara C. McCurdy, Reg. No. 32,120; James K. Hammond, Reg. No. 31,964; Richard V. Burgujian, Reg. No. 31,744; J. Michael Jakes, Reg. No. 32,824; Dirk D. Thomas, Reg. No. 32,600; Thomas W. Banks, Reg. No. 32,719; Christopher P. Isaac, Reg. No. 32,616; Bryan C. Diner, Reg. No. 32,409; M. Paul Barker, Reg. No. 32,013; Andrew Chanho Sonu, Reg. No. 33,457; David S. Forman, Reg. No. 33,694; Vincent P. Kovalick, Reg. No. 32,867; and Jeff E. Schwartz, Reg. No. 39,019

Please address all correspondence to **FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P.** 1300 I Street, N.W., Washington, D.C. 20005, Telephone No. (202) 408-4000.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

| | | |
|--|----------------------|---------------------|
| Full Name of First Inventor John B. Clayton | Inventor's Signature | Date |
| Residence 720 E. Wiggins Street, Superior, CO 80027 | | Citizenship U.S. |
| Post Office Address same | | |

Listing of Inventors Continued on Page 2 hereof. XX Yes No

| | | |
|--|--------------------------|---------------------|
| Full Name of Second Inventor Anthony Melkent | Inventor's Signature | Date |
| Residence 1800 Pyramid Place, Memphis, TN 38132 | | Citizenship U.S. |
| Post Office Address same | | |
| Full Name of Third Inventor Kevin T. Foley | Inventor's Signature | Date |
| Residence 220 South Claybrook, Suite 600, Memphis, TN 38104 | | Citizenship U.S. |
| Post Office Address same | | |
| Full Name of Fourth Inventor Michael Sherman <i>c.</i> | <i>M. C. Sherman</i> | Date <i>7/20/98</i> |
| Residence 1800 Pyramid Place, Memphis, TN 38132 | <i>5854 Haymarket Rd</i> | Citizenship U.S. |
| Post Office Address same | <i>TN 38120</i> | |
| Full Name of Fifth Inventor | Inventor's Signature | Date |
| Residence | | Citizenship |
| Post Office Address | | |
| Full Name of Sixth Inventor | Inventor's Signature | Date |
| Residence | | Citizenship |
| Post Office Address | | |
| Full Name of Seventh Inventor | Inventor's Signature | Date |
| Residence | | Citizenship |
| Post Office Address | | |
| Full Name of Eighth Inventor | Inventor's Signature | Date |
| Residence | | Citizenship |
| Post Office Address | | |
| Full Name of Ninth Inventor | Inventor's Signature | Date |
| Residence | | Citizenship |
| Post Office Address | | |
| Full Name of Tenth Inventor | Inventor's Signature | Date |
| Residence | | Citizenship |
| Post Office Address | | |

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The specification of which is attached under **C** was filed on _____ to United States Application Serial No. _____
PCT International Application No. _____ and was amended on _____ (if applicable).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above. I acknowledge the duty to disclose information which is material to patentability as defined in 35 U.S.C. § 136.

I hereby claim foreign priority benefit under 35 U.S.C. § 119(a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate or § 365(a) of any PCT international application(s) designating at least one country other than the United States, listed below and have also identified below, any foreign application(s) for patent or inventor's certificate, or any PCT international application(s) having a filing date before that of the application(s) of which priority is claimed:

| Country | Application Number | Date of Filing | Priority Claimed Under 35 U.S.C. 119 |
|---------|--------------------|----------------|---|
| | | | <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO |
| | | | <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO |

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below:

| Application Number | Date of Filing |
|--------------------|----------------|
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| | |

I hereby claim the benefit under 35 U.S.C. § 120 of any United States application(s) or § 365(c) of any PCT international application(s) designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT international application(s) in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose information which is material to patentability as defined in 35 U.S.C. § 136 which became available between the filing date of the prior application(s) and the national or PCT international filing date of this application:

| Application Number | Date of Filing | Status (Patented, Pending, Abandoned) |
|--------------------|----------------|---------------------------------------|
| | | |

I hereby appoint the following attorney and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith: FINNEGAN, HENDERSON, FARROW, GARRETT & DUNNER, L.L.P., Reg. No. 22,540; Douglas S. Anderson, Reg. No. 20,291; Ford J. Farshaw, Jr., Reg. No. 22,610; Arthur J. Garrett, Reg. No. 20,338; Donald R. Gagner, Reg. No. 19,873; Brian G. Brasfield, Reg. No. 22,571; Tipton D. Jennings, IV, Reg. No. 20,645; Jerry D. Wright, Reg. No. 23,070; Lawrence A. Kester, Reg. No. 20,827; Ernest E. Payne, Reg. No. 22,979; Herbert H. Mintz, Reg. No. 24,494; C. Larry O'Rourke, Reg. No. 26,014; Albert J. Santoroli, Reg. No. 22,910; Michael C. Elmer, Reg. No. 23,837; Richard H. Smith, Reg. No. 20,657; Stephen L. Peterson, Reg. No. 20,525; John W. Somary, Reg. No. 24,331; Bruce C. Zetter, Reg. No. 27,480; Dennis P. O'Toole, Reg. No. 27,972; Allen M. Schatz, Reg. No. 26,675; Robert D. Bujold, Reg. No. 23,387; Richard L. Stepp, Reg. No. 20,672; David W. H.D. Reg. No. 20,229; Thomas L. Irving, Reg. No. 20,619; Charles E. Lipsey, Reg. No. 28,163; Thomas W. Wicklund, Reg. No. 27,651; Basil J. Lewis, Reg. No. 28,818; Martin I. Fuchs, Reg. No. 28,508; E. Robert Todes, Reg. No. 28,179; Barry W. Graham, Reg. No. 29,924; Susan Heberman Griffen, Reg. No. 30,907; Richard G. Recio, Reg. No. 30,415; Thomas H. Jenkins, Reg. No. 30,857; Robert L. Coover, Jr., Reg. No. 27,412; Clair A. Mullin, Jr., Reg. No. 20,344; Christopher P. Foley, Reg. No. 31,354; John C. Paul, Reg. No. 30,417; Roger D. Taylor, Reg. No. 28,972; David M. Kelly, Reg. No. 30,353; Kenneth J. Meyers, Reg. No. 33,146; Carol P. Eustis, Reg. No. 33,220; Walter T. Boyd, Jr., Reg. No. 31,738; Steven W. Angelov, Reg. No. 32,995; James B. Fordin, Reg. No. 33,784; Barbara C. McAdory, Reg. No. 32,120; James L. Hamoud, Reg. No. 31,764; Richard V. Burgos, Reg. No. 31,744; J. Michael Jones, Reg. No. 32,824; Girt D. Thomas, Reg. No. 32,609; Thomas W. Stotes, Reg. No. 32,779; Christopher P. Isaac, Reg. No. 32,616; Bryan Giner, Reg. No. 32,697; H. Paul Barker, Reg. No. 32,913; Andrew Deashe Yann, Reg. No. 33,471; David S. Ferenc, Reg. No. 33,694; Vincent F. Kovach, Reg. No. 32,867; and Jeff E. Schwartz, Reg. No. 32,819.

Please address all correspondence to FINNEGAN, HENDERSON, FARROW, GARRETT & DUNNER, L.L.P. 1300 I Street, N.W., Washington, D.C. 20005. Telephone No. (202) 468-6000.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

| | | |
|--|----------------------|---------------------|
| Full Name of First Inventor John E. Clayton | Inventor's Signature | Date |
| Bridgeman 770 E. Wiggins Street, Superior, CO 80027 | | Citizenship U.S. |
| Post Office Address same | | |

Listing of inventors continued on Page 2 hereto. Yes No

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| Country | Application Number | Date of Filing | Priority Claimed Under 35 U.S.C. 119 |
|---------|--------------------|----------------|--|
| | | | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| | | | <input type="checkbox"/> YES <input type="checkbox"/> NO |

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below:

| Application Number | Date of Filing |
|--------------------|----------------|
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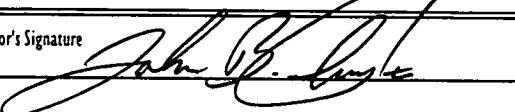
I hereby claim the benefit under 35 U.S.C. § 120 of any United States application(s) or § 365(c) of any PCT International application(s) designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application(s) in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR § 1.56 which became available between the filing date of the prior application(s) and the national or PCT International filing date of this application:

| Application Number | Date of Filing | Status (Patented, Pending, Abandoned) |
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| | | |
|--|--|---------------------|
| Full Name of John B. Clayton | Inventor's Signature  | Date 7.13.98 |
| Residence 720 E. Wiggins Street, Superior, CO 80027 | | Citizenship U.S. |
| Post Office Address same | | |

Listing of Inventors Continued on Page 2 hereof. Yes No

| | | |
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| Full Name of Third Inventor Anthony Melkert | Inventor's Signature <i>Anthony Melkert</i> | Date 7/13/98 |
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| Full Name of Third Inventor Kevin T. Foley | Inventor's Signature | Date |
| Residence 220 South Claybrook, Suite 600, Memphis, TN 38104 | Citizenship U.S. | |
| Post Office Address same | | |
| Full Name of Fourth Inventor Michael Sherman | Inventor's Signature | Date |
| Residence 1800 Pyramid Place, Memphis, TN 38132 | Citizenship U.S. | |
| Post Office Address same | | |
| Full Name of Fifth Inventor | Inventor's Signature | Date |
| Residence | Citizenship | |
| Post Office Address | | |
| Full Name of Sixth Inventor | Inventor's Signature | Date |
| Residence | Citizenship | |
| Post Office Address | | |
| Full Name of Seventh Inventor | Inventor's Signature | Date |
| Residence | Citizenship | |
| Post Office Address | | |
| Full Name of Eighth Inventor | Inventor's Signature | Date |
| Residence | Citizenship | |
| Post Office Address | | |
| Full Name of Ninth Inventor | Inventor's Signature | Date |
| Residence | Citizenship | |
| Post Office Address | | |
| Full Name of Tenth Inventor | Inventor's Signature | Date |
| Residence | Citizenship | |
| Post Office Address | | |

Listing of Investors Continued From Page I Below.

Attorney Docket No. 66149.0040-00000

| | | |
|--|----------------------|------------------------|
| Full Name of Second Investor Anthony Weidert | Investor's Signature | Date |
| Residence 1600 Pyramid Place, Memphis, TN 38132 | | Citizenship U.S. |
| Post Office Address None | | |
| Full Name of Third Investor Kevin T. Foley | Investor's Signature | Date <i>8/31/98</i> |
| Residence 220 South Claybrook, Suite 600, Memphis, TN 38104 | | Citizenship U.S. |
| Post Office Address None | | |
| Full Name of Fourth Investor Michael Sharpe | Investor's Signature | Date |
| Residence 1600 Pyramid Place, Memphis, TN 38132 | | Citizenship U.S. |
| Post Office Address None | | |
| Full Name of Fifth Investor | Investor's Signature | Date |
| Residence | | Citizenship |
| Post Office Address | | |
| Full Name of Sixth Investor | Investor's Signature | Date |
| Residence | | Citizenship |
| Post Office Address | | |
| Full Name of Seventh Investor | Investor's Signature | Date |
| Residence | | Citizenship |
| Post Office Address | | |
| Full Name of Eighth Investor | Investor's Signature | Date |
| Residence | | Citizenship |
| Post Office Address | | |
| Full Name of Ninth Investor | Investor's Signature | Date |
| Residence | | Citizenship |
| Post Office Address | | |
| Full Name of Tenth Investor | Investor's Signature | Date |
| Residence | | Citizenship |
| Post Office Address | | |

PRINEGAN, HENDERSON, FARNSWORTH, GARRETT & DUNNIN, L.L.P.

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** TOTAL PAGE .06 **

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